



February 13, 2023

DELIVERED BY EMAIL TO: reginald.m.skinner@usdoj.gov

Cognizant Classification Authorities

C/O Reginald M. Skinner

Senior Trial Attorney

U.S. Department of Justice, Civil Division, Torts Branch

Constitutional & Specialized Tort Litigation

**SUBJECT: REQUEST FOR ACCESS TO CLASSIFIED INFORMATION RELEVANT TO
FEDERAL LITIGATION ICO DR. ROE V. UNITED STATES, SA-22-CV-869-JKP-
HJB**

Our firm represents the Plaintiff in the above action, Dr. John Roe (anonymity used to protect his operational history and past and present classified projects; identity available from Reginald Skinner). The lawsuit alleges various deprivations of rights and torts arising from Dr. Roe's work within the AI/ML intelligence community for both the National Security Agency and U.S. Air Force. Within that litigation, the U.S. Government has moved to dismiss his claims, *inter alia*, because the complaint lacks sufficient specificity to proceed under applicable standards.

This argument by the Government has created a present need to access classified information by Plaintiff and his counsel. Specifically, much of Dr. Roe's work for the government as well as subsequent patents that directly impact the claims have been classified by the U.S. Government. It is understood that the classification for his work resides mostly at the TS // SCI // SAP level. Moreover, Plaintiff has specifically stated to counsel that there are additional specifics available to the complaint to satisfy the Government's motion but that those facts may not be disclosed given their classified nature. This creates an intolerable substantial prejudice to Dr. Roe's due process rights as he cannot solve the U.S. Government's asserted problem because the same U.S. Government is restraining the use of the material.

Given this situation, counsel for Plaintiff request pursuant to 28 CFR §§ 17.17 and 17.46, and any other applicable provisions and judicial rulings (previously provided to Mr. Skinner), that counsel and Plaintiff be authorized access to and the ability to discuss and submit classified facts in this proceeding. Both Plaintiff's counsel are believed to have active clearance eligibility but would require that be verified as we proceed forward. Specifically, undersigned counsel has previously been eligible to access TS // SCI // SAP material during his active-duty service with the U.S. Marine Corps. Mr. John Hodges has had access to SECRET level classified information in that same service.

Given the foregoing, Plaintiff and Plaintiff's counsel requests the following from all cognizant Classification Authorities:

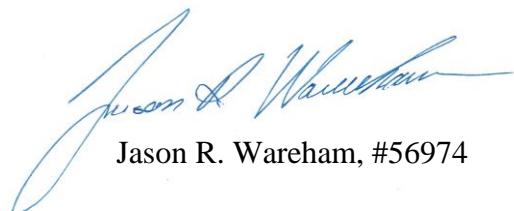
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- 1) That Plaintiff and counsel be provided eligibility to the requisite TS // SCI // SAP clearance level (through reactivation or clearance elevation – as necessary).
- 2) That all necessary read-ons and administrative processes be performed for all requisite codeword or SAP programs.
- 3) That a secure space (e.g. SCIF) at the requisite classification level in the San Antonio, Texas vicinity be established or provided to allow for Plaintiff and counsel communications.
- 4) That all information systems at the required level be established and provided for production of court filings (e.g., Motion to Dismiss Response and Amended Complaint) at the requisite classification level.
- 5) That a process be established with the judicial branch to allow for submission of classified fact to the Court at the requisite level.
- 6) That all other necessary actions take place within the U.S. Government to ensure that Plaintiff may properly raise the facts and issues currently restrained by classification programs.

Point of contact for this matter should first be with the Government counsel, Mr. Skinner. However, should any coordination need arise, please email undersigned counsel at jrwareham@thelawcenterpc.com.

Sincerely,



Jason R. Wareham, #56974